

1999 SENATE INDUSTRY, BUSINESS AND LABOR

SB 2318

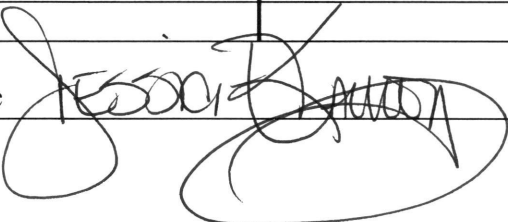
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2318

Senate Industry, Business and Labor Committee

Conference Committee

Hearing Date 1/26/99

Tape Number	Side A	Side B	Meter #
1	X		2600-4080
Committee Clerk Signature 			

Minutes:

Senator Mutch called the meeting to order. Roll call was taken, all were present.

Senator Mutch opened the hearing on SB 2318.

Senator Lyson introduced the bill. Bill that will save problems down the line. This bill is to straighten out the portion and say that you are only voting on the excise tax in front of you at this time.

Senator Krebsbach: How important is the 911 system tot he area you are representing?

Senator Lyson: It has been very important.

Terry Traynor testified in support of this bill. Testimony enclosed.

Senator Sand: We are talking about cell phones?

Terry Traynor: No. Just about land lines.

Stephan Conmy testified in support of SB 2318. Testimony enclosed.

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Senate Industry, Business and Labor Committee

Bill/Resolution Number Sb 2318

Hearing Date 1/26/99

Senator Klein: What are you finding is raising the cost?

Stephan Conmy: It's all in the accounting.

Senator Mutch: Depends on how you cost out your sheriff department and everything.

Shephan Conmy: Exactly.

Senator Sand: Is there a way to combine different counties?

Shephan Conmy: That is happening. Devils Lake is an example.

Jerry Marskey, in support of SB 2318. Testimony enclosed.

Senator Mutch closed the hearing on SB 2318.

Senator Klein made the motion for a Do Pass.

Senator Mathern seconded.

ROLL CALL: 6 yes, 0 no, 1 absent and not voting.

CARRIER: Senator Heitkamp

SR161195

Date: 1/26/99
Roll Call Vote #: SB 2318

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

Senate INDUSTRY, BUSINESS AND LABOR COMMITTEE Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS

Motion Made By _____ Seconded By _____

Senators	Yes	No	Senators	Yes	No
Senator Mutch	X				
Senator Sand	X				
Senator Klein	X				
Senator Krebsbach	X				
Senator Heitkamp	X				
Senator Mathern	X				
Senator Thompson					

Total (Yes) 6 No 0

Absent 1

Floor Assignment HEITKAMP

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

REPORT OF STANDING COMMITTEE (410)
January 26, 1999 10:10 a.m.

Module No: SR-16-1195
Carrier: Heitkamp
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2318: Industry, Business and Labor Committee (Sen. Mutch, Chairman) recommends **DO PASS** (6 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2318 was placed on the Eleventh order on the calendar.

1999 HOUSE FINANCE AND TAXATION

SB 2318

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2318

House Finance and Taxation Committee

Conference Committee

Hearing Date March 3, 1999

Tape Number	Side A	Side B	Meter #
1		x	38.7
Committee Clerk Signature <i>Jamie Stein</i>			

Minutes:

REP. BELTER Opened the hearing.

TERRY TRAYNOR, ASSISTANT DIRECTOR, NORTH DAKOTA ASSOCIATION OF COUNTIES, Testified in support of the bill. See written testimony. He also submitted to Owen K. Mehrer, Stark County, States Attorney from Attorney General, Heidi Heitkamp. See attached copy.

REP. BELTER Asked, what if the governing body would choose to decrease the tax?

TERRY TRAYNOR I don't know, if they put the question to the voters, I assume it would either be the existing tax as it stands or no tax at all. Right now, they only have the option of placing an amended tax before the voters.

STEPHEN W. CONMY, MORTON COUNTY EMERGENCY MANAGEMENT & 911 COORDINATOR, Testified in support of the bill. See written testimony.

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House Finance and Taxation Committee
Bill/Resolution Number Sb 2318
Hearing Date March 3, 1999

Mr. Conmy answered the prior question, stating that the county commission has the authority to lower the levy at any time. The way it is usually worded is, up to whatever is approved, but they can lower it at any time.

JERRY MARSCHKE, CITY OF BISMARCK 911 COORDINATOR, Testified in support of the bill. See written testimony.

With no further testimony, the hearing was closed.

COMMITTEE ACTION 3-3-99, Tape #2, Side B, Meter #3.1

REP. GROSZ Made a motion for a DO PASS.

REP. RENNER Second the motion. MOTION CARRIED

14 Yes 0 No 1 Absent

REP. KROEBER Was given the floor assignment.

Please type or use black pen to complete

Date 3-3-99

Roll call vote # 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES

BILL/RESOLUTION NO. SB 2318

House HOUSE FINANCE & TAX Committee

Subcommittee on _____

Conference Committee

} Identify or check where appropriate

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Rep. Grosz Seconded By Rep. Renner

Representatives	Yes	No	Representatives	Yes	No
BELTER	✓		WINRICH	✓	
RENNERFELDT	✓				
CLARK	✓				
FROELICH	A				
GRANDE	✓				
GROSZ	✓				
HERBEL	✓				
KROEBER	✓				
MICKELSON	✓				
NICHOLAS	✓				
RENNER	✓				
SCHMIDT	✓				
WARNER	✓				
WIKENHEISER	✓				

Total 14 0
(Yes) (No)

Absent 1

Floor Assignment Rep. Kroeber

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

DO NOT USE HIGHLIGHTER ON ANY FORMS

REPORT OF STANDING COMMITTEE (410)
March 3, 1999 4:15 p.m.

Module No: HR-38-3977
Carrier: Kroeber
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2318: Finance and Taxation Committee (Rep. Belter, Chairman) recommends DO PASS (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2318 was placed on the Fourteenth order on the calendar.

1999 TESTIMONY

SB 2318

**TESTIMONY TO THE
SENATE INDUSTRY, BUSINESS, & LABOR COMMITTEE**
Prepared January 26, 1999 by the
North Dakota Association of Counties
Terry Traynor, NDACo Assistant Director

Concerning Senate Bill No. 2318

Thank you Chairman Mutch and members of the Committee for the opportunity to express the support of my Association for Senate Bill 2318. This fairly straightforward bill was drafted at the request of county and city government to address a very specific problem.

Many of you may recall that when the 911-excise tax was first created, the maximum amount allowed by the Legislature was 50-cents per phone per month. Since that time, the Legislature has increased that limit to one dollar. Those cities and counties that jumped into 911 service early found that they faced considerable risk if they asked their voters to later approve a higher fee.

Attached to my testimony is a copy of a 1996 Attorney General's opinion that identified the risk. If I may, I wish to read a key sentence from the first full paragraph of the opinion's third page. "*Since its original enactment, N.D.C.C. ch. 57-40.6 has provided only one procedure for governing bodies to follow to put the E911 excise tax question before the electors.*" In the final paragraph on that page, the Attorney General goes on to state: "*It is my opinion, therefore, that if a city or county has in place an E911 excise tax voted in before August 1, 1995, and its governing body places the issue of the same or different amount of excise tax before its electors as either required or authorized by law, if the electors disapprove that excise tax, the authority for its collection in any amount in that city or county also ceases.*" Simply put, if governing body wants to ask its voters for a higher fee, the voters must choose all or none. Even if they would like to just

keep the lower fee in-place, that is not an option that can be voted on. This bill creates that option.

With the new language, a governing body could ask for an increase to be put in-place for the remaining term of the current fee, or they could still use the existing option of placing the whole thing on the ballot to start the six-year clock all over again.

Several 911 coordinators are here today and they can give you a better idea of how this might relate to their communities, but I welcome any questions you may have at this time. I would just like to end however by saying that county government urges your support of Senate Bill 2318.



Heidi Heitkamp
ATTORNEY GENERAL

STATE OF NORTH DAKOTA
OFFICE OF ATTORNEY GENERAL

STATE CAPITOL
600 E BOULEVARD AVE
BISMARCK, ND 58505-0040
(701) 328-2210 FAX (701) 328-2226

February 28, 1996

Mr. Owen K. Mehrer
Stark County State's Attorney
P.O. Box 130
Dickinson, ND 58602-0130

Dear Mr. Mehrer:

Thank you for your January 19, 1996, letter asking if voter disapproval of a \$1.00 excise tax for emergency 911 telephone service would affect a 50¢ excise tax in effect at the time of the election.

Authority for imposing the excise tax for emergency 911 (E911) telephone service was enacted in 1985 and codified as N.D.C.C. ch. 57-40.6. (1985 N.D. Sess. Laws ch. 645.) The chapter as enacted in 1985 required a governing body of a city or county desiring to impose the excise tax to adopt a resolution concerning E911 telephone service which contained elements:

1. Proposing the adoption of the excise tax.
2. Specifying an effective date for the tax.
3. Requiring it be submitted to the electors before the imposition of the tax.
4. Specifying the tax may not exceed 50¢ per telephone access line.
5. Requiring the telephone company to collect the tax from the telephone subscribers.
6. Providing procedures for the administration and collection of the tax, including reimbursing the telephone company for actual costs of administration in tax collection.
7. Requiring the telephone company to pay the amount of the tax to the governing body within 30 days after it is collected from the subscriber.

Mr. Owen K. Mehrer
February 28, 1996
Page 2

1985 N.D. Sess. Laws ch. 645, §§ 2, 3, and 4. The election ballot on the question of imposing the tax must include in its title the maximum monthly rate of the proposed tax. 1985 N.D. Sess. Laws ch. 645, § 2.

In 1991, N.D.C.C. § 57-40.6-02(1) was amended to allow imposing the tax not more than two years before implementing the E911 service, and to allow the maximum tax to be \$1.00. 1991 N.D. Sess. Laws ch. 687. That amendment was not made retroactive. N.D.C.C. § 1-02-10.

In 1995, N.D.C.C. § 57-40.6-02(2) and (3) were amended to state that the initial period of E911 excise tax imposition was six years, and that the tax could be reimposed for six additional years without resubmitting the question to the electors. 1995 N.D. Sess. Laws ch. 574. The 1995 amendments were not made retroactive. N.D.C.C. § 1-02-10.

Words in a statute are to be understood in their ordinary sense, and must be construed according to the approved usage of the language. N.D.C.C. §§ 1-02-02 and 1-02-03. A statute should be construed so that an ordinary person reading it would get from it the usual, accepted meaning. Wills v. Schroeder Aviation, Inc., 390 N.W.2d 544, 545 (N.D. 1986). Using these rules of statutory construction, the following interpretations apply.

If a city or county proposed E911 service before July 1991, the maximum tax rate was 50¢ per telephone access line, and, if approved, the tax could be reimposed for six years beyond the initial approval year without resubmitting the question to the electors.

If a city or county proposed E911 service after July 1991, the maximum tax rate was \$1.00 per access line and, if approved, the tax could be reimposed for six years beyond the initial approval year without resubmitting the question to the electors.

If a city or county proposed E911 service after July 1995, the approval by the electors was for an initial six years, and, if approved, the tax can be reimposed at the end of that first six years for an additional six years without resubmitting the question to the electors.

Therefore, if a city or county proposed E911 service before July 1995, and it was approved by the electors, it could stay in effect by reimposition by the governing body for not more than six years beyond the initial approval year without being resubmitted to the electors. However, the six-year continuation of the tax after the initial

Mr. Owen K. Mehrer
February 28, 1996
Page 3

approval year has always been permissive for the city or county governing body. That is, if the city or county governing body wanted to resubmit the E911 excise tax question to the electors every year, it could do so.

Since its original enactment, N.D.C.C. ch. 57-40.6 has provided only one procedure for governing bodies to follow to put the E911 excise tax question before the electors. That procedure is by passing a resolution with all of the required provisions and placing the issue before the electors by an appropriate ballot title. The imposition of the tax either passes or fails in total; there is no provision in the statute for splitting the question of the authority for the tax from the amount of the tax. N.D.C.C. § 57-40.6-02. The ballot must be worded to only permit a yes or no vote. N.D.C.C. § 57-40.6-02(2). Therefore, when a governing body puts the E911 excise tax question before its electors as required by law, the law only permits placing the entire issue of the E911 excise tax before the electors, rather than merely a question on part of the issue, such as changing the excise tax rate. Each time the E911 excise tax issue is placed before the electors of a city or county it constitutes an original or initial vote under the law, and if the electors disapprove the question, then the authority for any excise tax under N.D.C.C. ch. 57-40.6 ceases.

It is my opinion, therefore, that if a city or county has in place an E911 excise tax voted in before August 1, 1995,¹ and its governing body places the issue of the same or different amount of excise tax before its electors as either required or authorized by law, if the electors disapprove that excise tax, the authority for its collection in any amount in that city or county also ceases.

Sincerely,

Heidi Heitkamp
ATTORNEY GENERAL

rel/pg

¹ The result would be different if the excise tax were voted in after the 1995 amendments to N.D.C.C. § 57-40.6-02 since the statute now provides that a vote for passage of the excise tax imposes the tax for a six-year period. N.D.C.C. § 57-40.6-02(2).

TESTIMONY

TO: Senate Industry, Business & Labor Committee

FROM: Stephen W. Conmy, Morton County Emergency Management & 911 Coordinator

DATE: January 26, 1999

SENATE BILL # 2318

I fully support the testimony given by Mr. Terry Traynor from the Association of Counties.

This legislation would definitely have a direct impact on Morton County. We are one of the few counties left that is collecting 50 cents from each customer. As the current legislation is worded it amounts to blackmail, when presented to the voters as an all or nothing proposition. By allowing this change, it gives the electors the option to set the amount of collections without the fear of losing the 911 fund.

I would like to urge your support of Senate Bill #2318. Thank you Senator & Chairman Mutch and members of the committee for this opportunity to express my support.

Thank You:

Stephen W. Conmy

Morton County Emergency Management & 911 Coordinator

210 2nd Ave NW

Mandan, ND 58554

(701) 667-3307

TESTIMONY

TO: SENATE INDUSTRY, BUSINESS & LABOR COMMITTEE

DATE: January 26, 1999

FROM: Jerry Marschke, City of Bismarck/Burleigh County Emergency
Mgr & 911 Coordinator

SENATE BILL # 2318

Thank You Senator & Chair Mutch and members of the Committee
for this opportunity to express
Support for Senate Bill # 2318.

I fully support the testimony given by Mr. Traynor from the
Association of Counties

This legislation would not have an impact on Burleigh County. Our
voters gave us the additional 50 cents in 1994 by an overwhelming margin.
We are not in danger of losing the original 50 cents but if we did not have it,
we would not be able to keep pace with required service and technology for
911. Everyone wants and expects 911 service and I believe that they are
willing to pay this nominal amount.

Do you have any questions?

I would like to complete my testimony by urging your support of
Senate Bill # 2318.

Thank You:

Jerry Marschke

Director of Emergency Management & 911 Coordinator

700 South 9th Street

Bismarck, ND 58504

701-222-6727

**TESTIMONY TO THE
HOUSE FINANCE & TAXATION COMMITTEE
Prepared March 3, 1999 by the
North Dakota Association of Counties
Terry Traynor, NDACo Assistant Director**

Concerning Senate Bill No. 2318

Thank you Chairman Belter and members of the Committee for the opportunity to express the support of my Association for Senate Bill 2318. This fairly straightforward bill was drafted at the request of county and city government to address a very specific problem.

Many of you may recall that when the 911-excise tax was first created, the maximum amount allowed by the Legislature was 50-cents per phone per month. Since that time, the Legislature has increased that limit to one dollar. Those cities and counties that jumped into 911 service early found that they faced considerable risk if they asked their voters to later approve a higher fee.

Attached to my testimony is a copy of a 1996 Attorney General's opinion that identified the risk. If I may, I wish to read a key sentence from the first full paragraph of the opinion's third page. "*Since its original enactment, N.D.C.C. ch. 57-40.6 has provided only one procedure for governing bodies to follow to put the E911 excise tax question before the electors.*" In the final paragraph on that page, the Attorney General goes on to state: "*It is my opinion, therefore, that if a city or county has in place an E911 excise tax voted in before August 1, 1995, and its governing body places the issue of the same or different amount of excise tax before its electors as either required or authorized by law, if the electors disapprove that excise tax, the authority for its collection in any amount in that city or county also ceases.*" Simply put, if governing body wants to ask its voters for a higher fee, the voters must choose all or none. Even if they would like to just

keep the lower fee in-place, that is not an option that can be voted on. This bill creates that option.

With the new language, a governing body could ask for an increase to be put in-place for the remaining term of the current fee, or they could still use the existing option of placing the whole thing on the ballot to start the six-year clock all over again.

Several 911 coordinators are here today and they can give you a better idea of how this might relate to their communities, but I welcome any questions you may have at this time. I would just like to end however by saying that county government urges your support of Senate Bill 2318.

TESTIMONY

TO: House, Finance and Taxation Committee

FROM: Stephen W. Conmy, Morton County Emergency Management & 911 Coordinator

DATE: March 3, 1999

SENATE BILL # 2318

I fully support the testimony given by Mr. Terry Traynor from the Association of Counties.

This legislation would have a direct impact on Morton County. We are one of the few counties left that is collecting 50 cents from each customer. As the current legislation is worded, it amounts to blackmail, when presented to the voters as an all or nothing proposition. By allowing this change, it gives the electors the option to set the amount of collections without the fear of losing the 911 fund.

I would like to urge your support of Senate Bill #2318. Thank you Chairman Belter and members of the committee for this opportunity to express my support.

Thank You:

Stephen W. Conmy

Morton County Emergency Management & 911 Coordinator

210 2nd Ave NW

Mandan, ND 58554

(701) 667-3307

TESTIMONY

TO: HOUSE FINANCE & TAXATION COMMITTEE

DATE: March 3, 1999

FROM: JERRY MARSCHKE, CITY OF BISMARCK 9-1-1 COORD

SUBJECT: SB 2318

Thank You Representative Belter and members of this committee for the opportunity to express my support for SB 2318

This legislation would not have an impact on Bismarck or Burleigh County since our voters gave us the authority to increase the original 50 cent fee to \$1.00 in 1994. . Therefore we are not in danger or losing the original 50 cents, but I assure you that my center would not be able to keep pace with required service and technology for 911.

My current office budget is 724,000 and I received 213,000 in E911 line service fees last year. This is about 29.5% of my budget. One other example would be that I just ordered the capability to receive 20 digit numbers rather than the ten we have been receiving and the bill for just one console receiver is \$4100. Bismarck operates four consoles.

I have talked to only one resident who was unhappy with the assessment and it is my conviction that our citizens are not unhappy with 911. They know it saves lives and they will support it.

Do you have any questions?

In closing I urge your support to SB2318. THANK YOU

JERRY MARSCHKE
700 S 9TH ST
BISMARCK, ND 58504
222-6727