

FISCAL NOTE
Requested by Legislative Council
12/26/2018

Bill/Resolution No.: SB 2122

- 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.*

| | 2017-2019 Biennium | | 2019-2021 Biennium | | 2021-2023 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.*

| | 2017-2019 Biennium | 2019-2021 Biennium | 2021-2023 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).*

SB 2122 provides that when an application is filed under Title 49, and there is no application fee already provided in the title, the applicant shall pay the cost of publishing any notice the Commission issues on that application.

- 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.*

There are no expected fiscal impacts.

There may be the effect of lowering agency expenditures, but if and to what extent the expenditures will be lowered is unknown.

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.*

SB 2122 is not expected to have an effect on revenues.

- 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.*

The effect of SB 2122 on expenditures is unknown and may vary. If an application or multiple applications not covered by an application fee are filed, the enactment of SB 2122 would lower agency expenditures by the amount required to publish notices for processing each case.

- 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 or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.*

SB 2122 is not expected to have an effect on appropriations.

Name: John Schuh

Agency: Public Service Commission

Telephone: 7013282421

Date Prepared: 12/26/2018

2019 SENATE ENERGY AND NATURAL RESOURCES

SB 2122

2019 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

SB 2122
1/10/2019
Job Number 30633

- Subcommittee
 Conference Committee

Committee Clerk: Marne Johnson

Explanation or reason for introduction of bill/resolution:

A bill relating to an applicant paying the cost of publishing notice.

Minutes:

1 attachment

Chair Unruh: Opened the hearing, attendance was taken, all committee members were present.

Randy Christmann, Commissioner, Public Service Commission: (1:15-4:15) Introduced the bill, please see attachment #1.

Senator Cook: Why don't you just set a rate rather than leave it up to you?

Mr. Christmann: All these rate things are so specific, when we do anything with the tariffs or rates, it is very specific, if we did that, we'd be overcharging or undercharging, we're not sure what we'd do with the balance when the rate is higher than what it actually costs. Each filing will be different. For example, Ottertail is different than MDU. Some types of things go in the daily papers, some go in each county paper, every one of these is a different amount. With the filing fee, maybe this isn't clear. In the previous thing I mentioned where there are filing fees, they have this filing fee that covers cost of getting a judge, sometimes they have economic advisors, it adds up to a lot of money. One of the things is publication fees; when it's all done, everything not used gets returned to them at the end of the case. In these cases, when they submit these, they'd submit a filing fee, and whatever it didn't cost us, we would reimburse them.

Senator Cook: Last summer I asked Legislative Council if there had ever been a study of rates charged by the state of North Dakota. There hasn't been, but there should be. Allen Knudson had staff do a thorough study and I got the report. Tomorrow I introduce a bill that we study all the rates by the state of North Dakota, I was shocked by how many rates there were. In that report is Public Service Commission, and a list of the rates you do charge?

Mr. Christmann: Yes, there will be, this wouldn't be in there, but our fees charged for inspection of a scale or gas pump, that's in Century Code. The fees we charge for a number of things. This wouldn't be one of them; this is a filing fee. Even within each case, if description

is longer then it cost a little more, this is a little unclear and they get the remainder back. But yes we do have some that will be on your list, some that are very outdated, I talked to the person who oversees our auctioneer licensing, the fees for that have been the same since 1987.

Senator Cook: Should we be allowing agencies more flexibility in charging a rate based on what it costs rather than setting the fee in Code.

Mr. Christmann: I think so, but I'm familiar with our agency, I know how thorough we are, we are able to do it by administrative rule. There's public hearings for those things too. We do it responsibly, once in they're in Century Code they get so out dated that we get some things where our costs are far, far greater than the fee that we collect.

Senator Cook: I guess there's fees out there that are set 80 years and never looked at since.

Mr. Christmann: This is apart from those fees, this is a variable thing which works very well in the areas where the law has us able to collect a filing fee, the bigger rate cases and such. Budgets have become so tight, that it's hard to mop up these little things like we used to. It would be better to pass this bill and apply that filing fee to all cases.

**No additional agency or opposing testimony.
Public hearing closed.**

2019 SENATE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee Fort Lincoln Room, State Capitol

SB 2122
1/11/2019
Job Number 30693

- Subcommittee
 Conference Committee

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| Committee Clerk: Marne Johnson |
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Explanation or reason for introduction of bill/resolution:

A bill relating to an applicant paying the cost of publishing notice.

Minutes:

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|----------------|
| No Attachments |
|----------------|

Chair Unruh: This is a bill regarding costs of publishing notices when there is no application fee.

Senator Piepkorn: I move do pass.

Senator Roers: I second.

No Committee discussion.

A roll call vote was taken.

Motion passed 6-0-0.

Senator Piepkorn will carry.

Date: 1.11.19
Roll Call Vote #: 1

2019 SENATE STANDING COMMITTEE
ROLL CALL VOTES
BILL/RESOLUTION NO. 2122

Senate Energy and Natural Resources Committee
 Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
Other Actions: Reconsider _____

Motion Made By Sen. Piepkorn Seconded By Sen. Roers

| Senators | Yes | No | Senators | Yes | No |
|-------------------------|-----|----|--------------------------|-----|----|
| Chair Jessica Unruh | X | | Senator Merrill Piepkorn | X | |
| V. Chair Curt Kreun | X | | Senator Jim Roers | X | |
| Senator Dwight Cook | X | | | | |
| Senator Donald Schaible | X | | | | |
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Total (Yes) 6 No 0

Absent 0

Floor Assignment Sen. Piepkorn

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

REPORT OF STANDING COMMITTEE

SB 2122: Energy and Natural Resources Committee (Sen. Unruh, Chairman)
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
SB 2122 was placed on the Eleventh order on the calendar.

2019 HOUSE ENERGY AND NATURAL RESOURCES

SB 2122

2019 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau A Room, State Capitol

SB 2122

3/1/2019

33055

Subcommittee

Conference Committee

Committee Clerk, Kathleen Davis

Explanation or reason for introduction of bill/resolution:

Relating to an applicant paying the cost of publishing notice

Minutes:

Attachment 1

Chairman Porter: opened the hearing on SB 2122.

Brian Kroshus, Chairman, PSC commissioner: presented Attachment 1

Rep. Keiser: Why doesn't the PSC want to be consistent? In other words have an application fee for everybody, or, have everybody that pay an application fee and the cost of the Notice of Publication? Why create this confusion?

4:40

Kroshus: I think this adds consistency. We have some aps come in with a \$50 fee, we still have to publish the notices, costs are still incurred, may be a straight forward case maybe a rider tariff. A larger case would have a larger filing fee, would have ample fee to cover that costs. From a consistency standpoint in a large rate case, utility through their ap fee picks up the cost. But any costs a utility incurs is transferred back to the rate heirs (?) that utility serves. What's currently happening when public notices don't have adequate application fees, it's not applied to their customer base directly, but to all taxpayers even if they're not receiving service from that utility. I think it adds a level of consistency.

Rep. Keiser: I disagree. Either do one or other or both. This creates classes. Make the application fees appropriate or have everybody pay through the nose.

Chairman Porter: Further questions? Further testimony in support? Any opposition?
Closed the hearing

2019 HOUSE STANDING COMMITTEE MINUTES

Energy and Natural Resources Committee

Coteau A Room, State Capitol

SB 2122

3/21/2019

34107

Subcommittee

Conference Committee

Committee Clerk, Kathleen Davis

Explanation or reason for introduction of bill/resolution:

Relating to an applicant paying the cost of publishing notice

Minutes:

Chairman Porter: opened the hearing on SB 2122. This came to us from the PSC. They're talking about when an application is filed and who pays the costs of publishing the application.

Rep. Ruby: In Commissioner Kroshus' testimony he does lay out a couple scenarios for a request to amend a commission order, public utility rate applications, public utility applications regarding change. In those instances, I would move a Do Pass

Rep. Lefor: second.

Chairman Porter: We have a motion and a second for a Do Pass on SB 2122. Discussion?
Roll Call vote: 14 yes 0 no 0 absent. Rep. Marschall is carrier.

Date: 3-21-19
 Roll Call Vote #: 1

**2019 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 2122**

House Energy and Natural Resources Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Ruby Seconded By Lefor

| Representatives | Yes | No | Representatives | Yes | No |
|------------------------|-----|----|------------------|-----|----|
| Chairman Porter | ✓ | | Rep. Lefor | ✓ | |
| Vice Chairman Damschen | ✓ | | Rep. Marschall | ✓ | |
| Rep. Anderson | ✓ | | Rep. Roers Jones | ✓ | |
| Rep Bosch | ✓ | | Rep. Ruby | ✓ | |
| Rep. Devlin | ✓ | | Rep. Zubke | ✓ | |
| Rep. Heinert | ✓ | | | | |
| Rep. Keiser | ✓ | | Rep. Mitskog | ✓ | |
| | | | Rep. Eidson | ✓ | |
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Total (Yes) 14 No 0

Absent 0

Floor Assignment Marschall

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

REPORT OF STANDING COMMITTEE

SB 2122: Energy and Natural Resources Committee (Rep. Porter, Chairman)
recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
SB 2122 was placed on the Fourteenth order on the calendar.

2019 TESTIMONY

SB 2122

SB 2122
1.10.19
1
Pg. 1

Senate Bill 2122

Presented by: Randy Christmann, Commissioner
Public Service Commission

Before: Senate Industry, Energy and Natural Resources
Committee
The Honorable Jessica Unruh, Chairman

Date: January 10, 2019

TESTIMONY

Madam Chairman and committee members, I am Commissioner Randy Christmann with the Public Service Commission. The Commission asked me to appear in support of Senate Bill 2122 introduced at the Commission's request. Thank you for the opportunity to present this bill.

This new section to chapter 49-02 of the North Dakota Century Code requires that, when an application is filed under title 49 for which there is no application fee, the applicant shall pay the cost of publishing any notice issued by the Commission for the application.

Section 49-05-06 of the North Dakota Century Code states that the Commission may order a hearing, "**upon due notice**", concerning the propriety of any change by a public utility of any rate, classification, contract, practice or rule, increasing or decreasing, or resulting in an increase or decrease in any rate.

While the North Dakota Century Code requires the submission of an application fee for filings such as an application for advance determination of prudence (N.D.C.C. § 49-05-16), an application for an increase of rates (N.D.C.C. § 49-05-04), an application for rates to recover federal environmental mandate

costs (N.D.C.C. § 49-05-04.2), or an application for rates to recover transmission facility costs (N.D.C.C. § 49-05-04.3); the North Dakota Century Code does not provide an application fee for applications such as (1) requests to amend a Commission order (2) public utility rate applications that do not involve a rate increase, or (3) public utility applications regarding changes to any tariff provision decreasing, or resulting in a decrease in, any rate. The Commission believes it is appropriate that the utility benefiting from the proceeding pay cost of publication for notices issued by the Commission regarding the utility's application rather than the state general fund.

The cost of publication for a Notice is dependent on the length of the document and the number of newspapers serving the utility service area. For North Dakota public utilities, the number of newspapers varies. The cost of publishing a public utility Notice can be as low as \$96 to publish for one newspaper, but the cost varies across newspapers and increases when the notice is longer or when publication is required in a greater number of newspapers. For notice of an amended siting order, the cost of publishing the notice, including the map, can be as low as \$245 to publish twice in a newspaper as required, but again, the cost varies across newspapers and increases when the notice is longer or when publication is required in a greater number of newspapers.

Madam Chairman, this concludes my testimony. I will be happy to answer any questions.

Senate Bill 2122

Presented by: Brian Kroshus, Chairman
Public Service Commission

Before: House Energy and Natural Resources
The Honorable Todd Porter, Chairman

Date: March 1, 2019

TESTIMONY

Mr. Chairman and committee members, I am Brian Kroshus, Chairman of the Public Service Commission.

The Commission asked me to appear in support of Senate Bill 2122 introduced at the Commission's request. Thank you for the opportunity to present this bill.

This new section to chapter 49-02 of the North Dakota Century Code requires that, when an application is filed under title 49 for which there is no required application fee, the applicant shall pay the cost of publishing any notice issued by the Commission for the application.

Section 49-05-06 of the North Dakota Century Code states that the Commission may order a hearing, "upon due notice", concerning the propriety of any change by a public utility of any rate, classification, contract, practice or rule, increasing or decreasing, or resulting in an increase or decrease in any rate.

While the North Dakota Century Code requires the submission of an application fee for filings such as an application for advance determination of prudence (N.D.C.C. § 49-05-16), an application for an increase of rates (N.D.C.C. § 49-05-04), an application for rates to recover federal environmental mandate

costs (N.D.C.C. § 49-05-04.2), or an application for rates to recover transmission facility costs (N.D.C.C. § 49-05-04.3); the North Dakota Century Code does not provide an application fee for applications such as (1) requests to amend a Commission order (2) public utility rate applications that do not involve a rate increase, or (3) public utility applications regarding changes to any tariff provision decreasing, or resulting in a decrease in, any rate.

The Commission believes it is appropriate that the utility benefiting from the proceeding to pay for the cost of publication for notices issued by the Commission regarding the utility's application rather than through the state general fund.

The cost of publication for a Notice is dependent on space required for the notice (number of column inches) multiplied by the rate per inch, as well as number of newspapers serving the applicable utility service area. For North Dakota public utilities, the number of newspapers varies by geography involved.

In some instances the cost of publishing a Notice is very low if only one newspaper is required and their cost per inch rate is also low. Conversely, the cost of publishing can be substantially more when it involves multiple newspapers and/or higher cost per inch rates. Cost per inch rates are typically influenced by overall circulation numbers, distribution area and management philosophy.

Again though and to emphasis, the principle of the matter is not related to how costs vary but rather to appropriately assign those costs to the utility involved and ultimately, through the ratemaking process, their ratepayers rather than North Dakota taxpayers who may or may not receive service from them (i.e. the utility involved).

Mr. Chairman, this concludes my testimony. Thank you for the opportunity to present this information. I will be happy to answer any questions.