



Hundredth Legislature - First Session - 2007
Committee Statement
LB 661

Hearing Date: January 30, 2007

Committee On: Transportation and Telecommunications

Introducer(s): (Transportation and Telecommunications Committee)

Title: Change provisions relating to telecommunications

Roll Call Vote – Final Committee Action:

- Advanced to General File
 - X Advanced to General File with Amendments
 - Indefinitely Postponed
-

Vote Results:

- | | | |
|---|---------------------|---|
| 8 | Yes | Senators Pedersen, Stuthman, Schimek, Mines, Hudkins, Fischer, Aguilar and Louden |
| | No | |
| | Present, not voting | |
| | Absent | |
-

Proponents:

Dusty Vaughan, Legal Counsel, Introducer
Jerry Vap
Paul O'Hara

Representing:

Senator Deb Fischer, District #43
Nebraska Public Service Commission
TracFone

Opponents:

Beth Canuteson
Jim Otto

Representing:

Cingular, The New AT&T
Nebraska Retail Federation

Neutral:

Justin Brady

Representing:

Alltel

Summary of purpose and/or changes:

LB 661:

- Requires that VoIP providers collect and remit the landline 911 surcharge and the Relay surcharge;
 - Removes the one cent cap on the amount of the Relay Fund available which provides equipment to the deaf;
 - Modifies the way prepaid carriers collect the wireless surcharge from the reseller of the prepaid service and remit the surcharge to the Commission;
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- Requires the cost of an audit to be paid by the wireless carrier and requires carriers to take legal action to collect the Enhanced Wireless 911 and Relay surcharges;
- Modifies the makeup of the Enhanced Wireless 911 Advisory Board by replacing one representative from the telecommunications industry with a member of the public.

Section by Section Summary

Section 1 amends § 86-313 to require each telephone company in Nebraska to collect a surcharge on each telephone number or functional equivalent, including wireless service. The surcharge is only collected on the first one hundred numbers or functional equivalents. The section also strikes the language that allowed telephone companies to not be liable for any surcharge not paid by a subscriber and not obligated to take legal action.

Subsection (2) deals with the Telecommunications Relay System Act by striking the language limiting the amount appropriated for the specialized telecommunications equipment program to one cent of the surcharge per month.

Section 2 adds an internal reference.

Section 3 adds an internal reference.

Section 4 amends § 86-420 by adding a definition of primary place of use. The primary place of use means the residential or business street address that is representative of the primary location of the customer's use of a service that includes the provision of 911 service. For wireless service, the primary place of use shall be within the service area of the home service provider.

Section 5 amends § 86-433 to change the definition of service surcharge to denote a charge on each telephone number or functional equivalent of service users whose primary place of use is within the governing body's designated 911 service area, with the exception of those service users served by wireless carriers.

Section 6 amends § 86-434 to change the definition of service user to mean any person who is provided 911 service in the state.

Section 7 amends § 86-435 to allow a governing body incurring 911 costs to impose a uniform surcharge of up to fifty cents per month on each telephone number or functional equivalent of service users whose primary place of use is within the 911 service area, except for those users served by wireless carriers.

Section 8 amends § 86-436 to change where a service user shall pay service surcharges in each 911 service area from where the service user has local exchange access line service to its primary place of use.

Section 9 adds an internal reference.

Section 10 adds an internal reference.

Section 11 adds a definition of prepaid wireless service to mean a wireless service for which the user pays prospectively and for which the wireless carrier does not have an ongoing monthly billing relationship with the user of such service.

Section 12 adds a definition of wireless service to mean any mobile service as defined in 47 U.S.C. 153, as such section existed on January 1, 2007, provided by a wireless carrier to a user whose primary place of use is in Nebraska.

Section 13 strikes the current language in § 86-457 authorizing a wireless carrier to collect the wireless E911 surcharge. The section reinserts language that requires a wireless carrier to collect a surcharge of up to \$.70, except in Douglas County where it shall be no more than \$.50, from users of wireless service, but changes references from access lines to phone numbers or functional equivalents. A wireless carrier is not liable for any surcharge not paid by a customer.

As the law currently exists, the wireless carrier shall add the surcharge to each user's billing statement, and shall appear as a separate line-item charge and be labeled as "Enhanced Wireless 911 Surcharge." If a carrier resells its service, each reseller shall collect the surcharge, except with respect to resellers of prepaid service, which are addressed in a later subsection.

The section also adds legislative intent language to state that all users of prepaid wireless services pay an amount comparable of the amount paid by users of wireless services that are not prepaid in support of statewide wireless enhanced 911 service.

In support of this intent, the commission shall develop a mechanism to establish a surcharge to be collected by wireless carriers from users of prepaid wireless services. Wireless carriers shall collect this as a separate charge from any entity that resells the carrier's prepaid wireless service.

Section 13 does not apply to users who have no 911 service. This will exempt traditional paging companies from having to collect and remit the surcharge.

Section 14 amends § 86-459 to clarify the reporting requirements already in existence by authorizing the commission to require each wireless carrier to report on a quarterly basis for each county: the number of telephone numbers or functional equivalents served, the telephone numbers or functional equivalents from which it has collected surcharge revenue, the number of wireless towers by county, and the current implementation status of enhanced wireless 911 service in each county. The wireless carrier shall maintain all records required by this section, records of the amounts collected, and remittance records.

The section also strikes the language that required the commission to pay for an audit of the wireless carrier's books and records concerning collection of the enhanced wireless 911 surcharge. It then inserts language that requires the audit to be paid by the audited wireless carrier at the commission's discretion.

Section 15 amends § 86-461 to change the makeup of the Enhanced Wireless 911 Advisory Board. The board shall be composed of nine people. There shall be one representative from the wireless telecommunications industry instead of the current two members. One member of the public shall be added to the board in substitute. The board shall also include two ex officio

members who shall be one commissioner from the Public Service Commission or his or her designee, and the Chief Information Officer or his or her designee.

Section 16 repeals the original sections.

Section 17 outright repeals §§ 86-427 (local exchange access line definition), 86-443.01 (active prepaid account definition) and 86-450.01 (prepaid customer definition), Revised Statutes Cumulative Supplement, 2006.

Explanation of amendments, if any:

The committee amendment, AM455, strikes the original sections and becomes the bill. The amendment makes several changes to LB 661, as well as incorporates the provisions of LB 560 and LB 660.

Changes Made to LB 661

Section 3 amends § 86-313 to include a reference to a definition of wireless service. Language is reinserted to state that telephone companies are not liable for any surcharge not paid by a subscriber. A new subsection (6) is also added to clarify that the entire section does not apply to subscribers with no access to relay service.

Section 11 strikes a reference to define the primary place of use for wireless service.

Section 12 amends § 86-433 exempts services with no access to 911 service from the county surcharge.

Section 18 adds a new definition of home service provider to mean a telecommunications company that has contracted with a customer to provide wireless service.

Section 20 adds a new definition of primary place of use. The definition outlines the practices for normal wireless service, as well as for prepaid wireless service.

Section 21 amends § 86-456 to reference the definition of wireless service in federal law as it existed on January 1, 2007.

Section 22 amends the definition of wireless service to include two other sections of federal law.

Section 23 amends § 86-457 to make several changes to the original bill. An effective date of July 1, 2007 is added. Legislative intent language is included to state that whenever possible the wireless E911 surcharge should be collected from the users of prepaid wireless services. The commission shall establish surcharges comparable to the surcharge assessed to other users of wireless services and will develop the methods for collection and remittance. The amendment also strikes subdivision (3)(a) authorizing the collection from an entity that resells the prepaid wireless service, and inserts a provision that the duty to remit the surcharge is the responsibility of the wireless carrier.

Section 24 amends § 86-459 to state a wireless carrier is not liable for more than one audit per year, unless the commission shows good cause.

Section 31 adds the emergency clause to the bill.

LB 560

LB 560 is included as Sections 1 and 2 of the amendment. The bill requires all communications providers who are not certified by the Public Service Commission to file limited contact information with the Commission and pay a one-time \$50 registration fee.

The bill amends § 86-125 by substituting “all communication providers” for “a wireless carrier.” Any current providers will have to register by 1/1/08, and any new providers offering services after August 1, 2007 will have to register before they can offer services.

Communication providers are required to provide to the Commission a contact person regarding: the Nebraska Universal Service Fund, the Relay System (deaf and hard of hearing), wireless E911, and consumer complaints. In addition, communication providers that offer transmission services (broadband providers) need to provide a contact person with managerial responsibility for Nebraska operations.

This requirement applies to all communication providers except those who are otherwise regulated under the Nebraska Telecommunications Act (landline telephone companies).

The bill also changes the time period from 60 days to 90 days as the length that the Commission has to set a hearing date from the date of filing for the review of the setting of access charges.

The act has an operative date of August 1, 2007.

LB 660

LB 660 is included as Sections 4-8 of the amendment. The bill amends the Nebraska Telecommunications Universal Service Act to require Voice over Internet Protocol (VoIP) providers to contribute to the Nebraska Universal Service Fund.

The bill amends § 86-318 to add a new definition of “Telecommunications” to the Act, which means the transmission between or among points specified by the user of information of the user’s choosing without change in the form or content of the information as sent and received.

This definition widens the scope of telecommunications to include VoIP providers as offering telecommunications, thus requiring them to contribute to the Nebraska Universal Service Fund as any other company does that offers telecommunications.

The bill also amends the current definition of telecommunications company by substituting the word “providing” for the word “offering”, so that telecommunications company means any organization “providing telecommunications or telecommunications service for hire in Nebraska.” This wording broadens the definition and keeps Nebraska’s statutory definition consistent with recent FCC rulings.

The bill also amends § 86-323 by striking the word “services” after telecommunications, so that the subsection reads “all providers of telecommunications should make an equitable and nondiscriminatory contribution to the preservation and advancement of universal service.” This slight change is consistent with recent FCC rulings, and conveys the intent of the Legislature that all telecomm. companies, including VoIP providers, should be contributing to the Nebraska Universal Service Fund.

Senator Deb Fischer, Chairperson