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LEGISLATIVE BILL 240

Approved by the Governor February 20, 1990

Introduced by Hall, 7

AN ACT relating to telephone services; to state intent; to define terms; to create a fund; to provide for surcharges; to provide for a statewide dual-party relay system for persons with hearing or speech impairments; to create a committee; to provide for the funding of 911 emergency telephone communications systems; to authorize certain agreements; to provide immunity from liability; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. The purpose of sections 1 to 6 of this act is to provide a statewide dual-party relay system for hearing-impaired or speech-impaired persons in Nebraska to enable such persons to communicate fully with others using conventional telephone systems twenty-four hours per day, seven days per week.

Sec. 2. For purposes of sections 1 to 6 of this act:

(1) Commission shall mean the Public Service Commission;

(2) Dual-party relay system shall mean a service that permits full and simultaneous communication between hearing-impaired or speech-impaired persons using specialized telecommunications equipment and others using conventional telephone equipment;

(3) Fund shall mean the Nebraska Telephone Relay System Fund; and

(4) Specialized telecommunications equipment shall mean any telecommunications device which enables hearing-impaired or speech-impaired persons to communicate using conventional telephone systems. Specialized telecommunications equipment shall include, but not be limited to, telecommunications devices for the deaf, signaling devices, and electronic artificial larynx devices.

Sec. 3. There is hereby created the Nebraska Telephone Relay System Fund. The fund shall be used to provide a statewide dual-party relay system. Any money in the fund available for investment shall be invested by the state investment officer pursuant to sections

72-1237 to 72-1276.

Sec. 4. Beginning January 1, 1991, each telephone company in Nebraska shall collect a surcharge not to exceed ten cents per month on each telephone access line in Nebraska. The surcharge shall only be collected on the first one hundred telephone access lines per customer. The telephone companies shall add the surcharge to each customer's local telephone bill. The telephone companies shall not be liable for any surcharge not paid by a customer and shall not be obligated to take legal action to collect the surcharge.

Before September 1, 1990, and before September 1 each year thereafter, the commission shall hold a public hearing to determine the amount of surcharge necessary to carry out the purpose specified in section 1 of this act. After the hearing the commission shall set the surcharge at the level necessary to fund the statewide dual-party relay system for the following year plus a reasonable reserve. The surcharge shall be effective on January 1, 1991, and any changes in the rate shall become effective on January 1 following the change. In an emergency the commission may adjust the amount of the surcharge to become effective before such date but only after a public hearing for such purpose.

The proceeds from the surcharge shall be remitted to the commission monthly no later than thirty days after the end of the month in which they were collected together with forms to be provided by the commission. The commission shall remit the funds to the State Treasurer for credit to the fund.

The commission may require an audit of any telephone company collecting the surcharge under this section.

Sec. 5. The commission shall establish standards, procedures, and training specifications for the dual-party relay system and shall supervise the operation of the system. The system shall assure prompt and accurate relay of all messages seven days per week, twenty-four hours per day, including holidays, and shall provide at least the following services to all hearing-impaired or speech-impaired persons living in Nebraska who possess specialized telecommunications equipment: (1) Statewide in-state calls with charges for long-distance calls billed to the person making the call in a manner which the commission determines will recover the cost of long-distance calls to the system; (2) out-of-state calls with charges billed to the person making the call; and (3) emergency calls. Any person using the system shall not be charged for access to the

system other than charges billed for in-state and out-of-state long-distance service. The commission shall adopt and promulgate rules and regulations necessary for implementation of sections 1 to 6 of this act. The commission may enter into contracts with other agencies or private organizations to operate the statewide dual-party relay system.

Sec. 6. The commission shall administer sections 1 to 6 of this act with the advice of a special committee appointed by the Commission for the Hearing Impaired. The special committee shall consist of seven members as follows: Two members shall be hearing-impaired persons, one of whom is deaf; one member shall be a speech-impaired person; one member shall represent the Public Service Commission; one member shall represent the telephone industry; one member shall represent the Commission for the Hearing Impaired; and one member shall represent the public.

Sec. 7. The Legislature finds that 911 emergency telephone communications systems further the public interest and protect the health, safety, and welfare of the people of Nebraska. The purpose of sections 7 to 15 of this act is to fund the development, installation, and operation of 911 emergency telephone communications systems throughout the state.

Sec. 8. For purposes of sections 7 to 15 of this act:

(1) Governing body shall mean the board of county commissioners or supervisors of a county, the city council of a city, the board of trustees of a village, or the board of directors of any rural or suburban fire protection district;

(2) Local exchange access line shall mean any telephone line that has the ability to access local dial tone and reach local public safety agencies;

(3) 911 service shall mean a telephone service which provides a service user with the ability to reach a public safety answering point by dialing the digits 911 for the purpose of reporting emergencies. The level of technology to be used for the provision of 911 service in a particular 911 service area shall be determined by the governing bodies having jurisdiction over such area;

(4) 911 service area shall mean the portion of a governing body's jurisdiction in which 911 service is provided;

(5) Public safety agency shall mean an agency which actually provides firefighting, law enforcement, ambulance, emergency medical, or other emergency

services;

(6) Public safety answering point shall mean a twenty-four-hour, local-jurisdiction communications facility which receives 911 service calls and either directly dispatches emergency services or relays calls to the appropriate public safety agency;

(7) Service supplier shall mean any person providing 911 service in this state;

(8) Service surcharge shall mean a charge set by a governing body and assessed on each local exchange access line which physically terminates within the governing body's designated 911 service area; and

(9) Service user shall mean any person who is provided local exchange access line service in this state.

Sec. 9. (1) A governing body may incur any nonrecurring or recurring charges for the installation, maintenance, and operation of 911 service and shall pay such costs out of general funds which may be supplemented by funds from the imposition of a service surcharge. A governing body incurring costs for 911 service may impose a uniform service surcharge in an amount not to exceed fifty cents per month on each local exchange access line physically terminating in the governing body's 911 service area. The initial service surcharge may be imposed at any time subsequent to the execution of an agreement for 911 service with a service supplier.

(2) If 911 service is to be provided for a territory which is included in whole or in part in the jurisdiction of two or more governing bodies, the agreement for such service shall be entered into by each such governing body unless any such governing body expressly excludes itself from the agreement. Such an agreement shall provide that each governing body which is a customer of 911 service will pay for its portion of the service. Nothing in this subsection shall be construed to prevent two or more governing bodies from entering into a contract which establishes a separate legal entity for the purpose of entering into such an agreement as the customer of the service supplier or any supplier of equipment for 911 service.

Sec. 10. A service user shall pay service surcharges in each 911 service area where the service user has local exchange access line service and receives 911 service, except that an individual service user shall not be required to pay on a single periodic billing service surcharges on more than one hundred local exchange access lines, or their equivalent, in any

single 911 service area. Every service user shall be liable for any service surcharge billed to such user until the surcharge has been paid to the service supplier.

The duty of a service supplier to bill a service surcharge to a service user shall commence at such time as may be specified by the governing body. A service surcharge shall be collected as far as practicable at the same time as and along with the charges for local exchange access lines in accordance with the regular billing practice of the service supplier.

A service supplier shall have no obligation to take any legal action to enforce the collection of any service surcharge imposed pursuant to section 9 of this act. Such action may be brought by or on behalf of the governing body imposing the charge or the separate legal entity formed pursuant to such section. A service supplier shall annually provide the governing body a list of the amounts uncollected along with the names and addresses of those service users who carry a balance that can be determined by the service supplier to be for nonpayment of any service surcharge. The service supplier shall not be liable for such uncollected amounts.

Sec. 11. The amount of service surcharges collected in one calendar quarter by a service supplier shall be remitted to the governing body no later than sixty days after the close of that calendar quarter. At the time of the remittance, the service supplier shall file a return for the remittance with the governing body in such form as the governing body and the service supplier agree upon. The service supplier shall maintain a record of the amount of service surcharges collected. The record shall be maintained for a period of one year after the date the amount was billed. A governing body may at its own expense require an annual audit of a service supplier's books and records concerning the collection and remittance of a service surcharge.

Sec. 12. Each calendar year, the governing body shall establish the rate of the service surcharge, not to exceed the amount authorized by section 9 of this act, that together with any surplus revenue carried forward will produce sufficient revenue to fund the expenditures described in section 7 of this act. Amounts collected in excess of such necessary expenditures within a given year shall be carried forward to the next year. A governing body shall make

its determination of the rate no later than September 1 of each year and, if it is a new rate, shall fix the new rate to take effect commencing with the first billing period of each service user on or following the next January 1. The governing body shall notify by certified or registered mail every service supplier of any change in the rate at least ninety days before the new rate becomes effective.

Sec. 13. Funds collected by a governing body from the imposition of a service surcharge shall be credited to a separate fund apart from the general revenue of the governing body and shall be used solely to pay for costs for 911 service. Any money remaining in the fund at the end of any fiscal year shall remain in the fund for payments during any succeeding year, except that if 911 service is discontinued, money remaining in the fund after payment of all costs related to 911 service have been made shall be transferred to the general fund of the public safety agency or proportionately to the general fund of each participating public safety agency.

Sec. 14. Any governing body authorized to impose a service surcharge may enter into an agreement directly with a service supplier of 911 service or may contract and cooperate with any public safety agency, with other states or their political subdivisions, or with any association or corporation for the administration of 911 service as provided by law.

Sec. 15. The 911 service described in sections 7 to 15 of this act is within the governmental powers and authorities of a governing body or public safety agency. In contracting for such service and in providing such service, except for failure to use reasonable care or for intentional acts, each governing body, public safety agency, and service supplier and their employees and agents shall be immune from liability or the payment for any damages in the performance of installing, maintaining, or providing 911 service.

Sec. 16. Since an emergency exists, this act shall be in full force and take effect, from and after its passage and approval, according to law.